UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,006	12/26/2001	Masayoshi Kobayashi	P/1912-25	1148

7590 08/23/2006	EXAMINER
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DICKSTEIN, SHAPIRO, MORIN & OSHINSKY LLP	

ART UNIT	PAPER NUMBER
2616	

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DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Advisory Action Before the Filing of an Appeal Brief	Application No. 10/027,006	Applicant(s) KOBAYASHI, MASAYOSHI	
		Examiner Robert W. Wilson	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 August 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>4</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

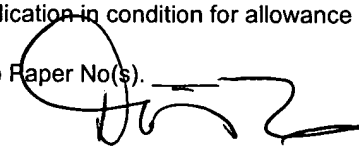   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>112/ 2ⁿᵈ rejection to claims 32-39</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: <u>3-13,16-25,27-31,43-47 and 51-55</u>.

   Claim(s) rejected: <u>1,2,14,15,26,32-42, 48-50</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

DORIS H. TO
SUPERVISORY PATENT EXAMINER
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Continuation of 3. NOTE: The examiner reviewed the applicant's amendment. The examiner disagrees with the applicant's argument that the 101 rejection relative to claims 32-39 has been traversed because the claim language does not indicate that the program is executable on a processor. Merely stating that a program is stored on a computer readable medium reads on a program listing. The examiner disagrees with the applicant's argument that Berg does not teach "one way splicing from a server to a client". Berg teaches "one way splicing from a server to client" in paras [0050], [0057] to [0061],& [0026] to [0027]. The examiner disagrees with the applicant's argument that Berg does not teach rewriting a packet header. Berg teaches rewriting a sequence number which is in the packet header per Para [0061]. The examiner disagrees that Berg teaches away from TCP splicing. Berg teaches alternative ways to perform the function as well as TCP splicing. The examiner disagrees with the applicant's comment that Figure 1A and Figure 1B do not teach TCP splicing per Para [0025]. Para [0025] is describing the difference between Figure 13 and Figure 1B. Figure 13 is performed without TCP splicing per Para [0025] whereas Figure 1B is performed with TCP splicing. Consequently, applicant has not traversed the rejection and the examiner believes the rejection is reasonable and just. .

Continuation of 11. does NOT place the application in condition for allowance because: The examiner reviewed the applicant's request for reconsideration. The examiner disagrees with the applicant's argument that the 101 rejection relative to claims 32-39 has been traversed because the claim language does not indicate that the program is executable on a processor. Merely stating that a program is stored on a computer readable medium reads on a program listing. The examiner disagrees with the applicant's argument that Berg does not teach "one way splicing from a server to a client". Berg teaches "one way splicing from a server to client" in paras [0050], [0057] to [0061],& [0026] to [0027]. The examiner disagrees with the applicant's argument that Berg does not teach rewriting a packet header. Berg teaches rewriting a sequence number which is in the packet header per Para [0061]. The examiner disagrees that Berg teaches away from TCP splicing. Berg teaches alternative ways to perform the function as well as TCP splicing. The examiner disagrees with the applicant's comment that Figure 1A and Figure 1B do not teach TCP splicing per Para [0025]. Para [0025] is describing the difference between Figure 13 and Figure 1B. Figure 13 is performed without TCP splicing per Para [0025] whereas Figure 1B is performed with TCP splicing. Consequently, applicant has not traversed the rejection and the examiner believes the rejection is reasonable and just.